

FILED
CLERK

2010 DEC 28 PM 4 28

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA**

ENTERED BY _____
DEPUTY CLERK

GREAT FALLS DIVISION

JADE WILLIAM SMOKER,

Petitioner,

No. CV-10-65-GF-SEH

vs.

ORDER

WARDEN STEVE RAY;
ATTORNEY GENERAL OF
THE STATE OF MONTANA,

Respondent.

On December 8, 2010, United States Magistrate Judge Keith Strong entered his Findings and Recommendations¹ in this matter. Petitioner filed objections on December 22, 2010. The Court reviews *de novo* findings and recommendations to which objection is made.

Upon *de novo* review of the record, I find no clear error in Judge Strong's Findings and Recommendations and adopt them in full.

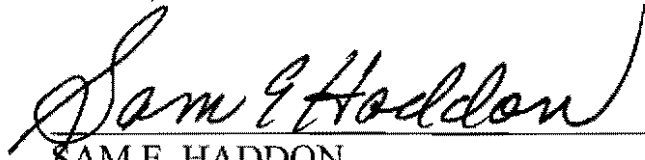
¹ Document No. 9

The Court also considered *de novo* Judge Strong's ruling denying Petitioner's Motion for Appointment of Counsel which was issued by Text Order on November 16, 2010, and restated in the Findings and Recommendations entered on December 8, 2010. Petitioner claims not to have received the Text Order. He does not dispute that he received the Findings and Recommendations of December 8, 2010. The appointment of counsel motion has nevertheless been accorded *de novo* review and has been found to be without merit.

ORDERED:

1. Petitioner's Motion for Appointment of Counsel² is DENIED.
2. The Petition for Writ of Habeas Corpus³ is DISMISSED with prejudice as time-barred.
3. A certificate of appealability is DENIED.
4. The Clerk is directed to enter judgment in favor Respondent and against Petitioner.

DATED this 28th day of December, 2010.



SAM E. HADDON
United States District Judge

² Document No. 6

³ Document No. 1